

REMARKS

Claims 1-4, 7-15, 17, 18, 21-27 and 29-36 are pending in this application after entry of this Amendment. Claims 21-27, 29 and 33-35 have been withdrawn. Claims 1-4, 7-15, 17, 18 and 30-32 have been rejected. Claim 36 is newly added. No new matter has been added. It is respectfully submitted that the pending claims define allowable subject matter.

Claims 1-4, 7-15, 17, 18 and 30-32 have been rejected under 35 U.S.C §112, second paragraph for reciting “at least one of standard values and measured values” and later in the claim reciting both values. Applicants have amended claims 1 and 12 to remove the recitation of “at least one of”. Accordingly, Applicants submit that the rejection of claims 1-4, 7-15, 17, 18 and 30-32 under 35 U.S.C §112 should be withdrawn.

Claims 12-15, 17 and 18 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Office Action states that the “steps of comparing in the claim can be achieved by a human simply thinking in their head” (Final Office Action, page 9). Applicants have amended claim 12 to include a processor that performs the comparing. Accordingly, Applicants submit that the rejection under 35 U.S.C. §101 of claims 12-15, 17 and 18 should be withdrawn.

Claims 1-3, 7-14, 17, 18 and 30-32 have been rejected under 35 U.S.C. §102(b) as being anticipated by Lemelson et al. (U.S. Patent 5,878,746), hereafter Lemelson. Claims 1-3, 7-14, 17, 18 and 30-32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson in view of DiFilippo et al. (U.S. Patent Application Publication 2002/0164059), hereafter DiFilippo. Claims 4 and 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson in view of DiFilippo and further in view of Brady et al. (U.S. Patent 7,200,612), hereafter Brady. Claims 4 and 15 have also been rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson in view of Brady.

Applicants respectfully traverse these rejections for at least the reasons set forth hereafter.

The Office Action asserts that Lemelson or Lemelson in combination with DiFilippo teaches all of the elements of independent claims 1 and 12. The Office Action then states that

with respect to “applicant’s arguments that the references do not show comparing new patient data with past measured patient data and standard data, examiner respectfully disagrees” and that merely “comparing new and old data is not a novel concept” (Final Office Action, page 9). Applicants claimed invention is not merely comparing new and old data. Claims 1 and 12 require comparing measured parameters from a new patient data set to standard values for physiologic parameters from past patient data sets to identify an abnormality *and if an abnormality is not identified* further comparing the measured parameters from the new patient data set to measured values for the physiologic parameters from the past patient data sets. Although Lemelson discloses using comparison codes to represent differences between images and DiFilippo discloses highlighting areas of interest on an image using image analysis software, the references simply teach different types of comparisons of image data and not the steps or order in which the comparison are performed. Claims 1 and 12 specifically require comparing the measured parameters from the new patient data set to measured values for the physiologic parameters from the past patient data set *if* an abnormality is not identified from a comparison of measured parameters from a new patient data set to standard values for physiologic parameters from past patient data sets.

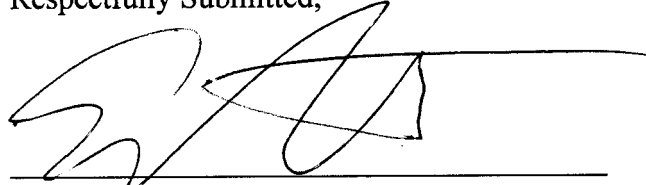
In order to render a claim unpatentable “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Applicants submit that although different comparisons may be made between image data, the references fail to disclose performing one type of comparison if an abnormality is not determined by another type of comparison. Applicants submit that claimed comparison process is not disclosed in the cited references, and especially not in the detail required to support a rejection of the claimed invention. Accordingly, Applicants submit that claims 1 and 12 are allowable.

Additionally, Applicants submit that dependent claims 2-4, 7-11, 13-15, 17 18, 30-32 and newly added claim 36 recite additional subject matter not anticipated or rendered obvious by the cited references. Further, dependent claims 2-4, 7-11, 13-15, 17 18, 30-32 and 36 are patentable over the cited references based at least on the dependency of these claims from the independent claims.

There may be additional and/or alternative reasons to the reasons argued herein and/or herebefore that claims 1-4, 7-15, 17, 18, 30-32 and 36 are each patentable over the cited references. Without waiver of any additional and/or alternative reasons, Applicants reserve the right to argue any additional and/or alternative reasons hereafter.

In view of the foregoing amendments and remarks, it is respectfully submitted that the cited references neither anticipate nor render obvious the claimed invention and the pending claims in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Evan Reno Sotiriou', written over a horizontal line.

Date: December 24, 2009

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